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9 IN THE UNITED STATES DISTRICT COURT
10
11 EASTERN DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,
13 Plaintiff,
14 v.
15 GARY STEPHEN MAYNARD,
16 Defendant.

17 CASE NO. 3:21-MJ-0007 DMC
18 GOVT.'S DETENTION MEMORANDUM
19 DATE: August 10, 2021
20 TIME: 2:00 P.m.
21 COURT: Hon. Kendall J. Newman

22 I. **INTRODUCTION**

23 Gary Stephen Maynard is charged by criminal complaint with setting an arson-fire in the Lassen
24 National Forest in violation of Title 18, United States Code, Section 1855. As described in detail in the
25 criminal complaint, he has set several other arson-fires within the last month. Maynard poses a
26 significant danger to the public and, as explained below, no realistic conditions of release can effectively
mitigate the risk of death and property destruction.

27 II. **MAYNARD SHOULD BE DETAINED**

28 A. **Standard under the Bail Reform Act**

Bail hearings generally proceed by proffer and the rules of evidence do not apply. 18 U.S.C. § 3142(f). The defendant has the right to call witnesses and to cross-examine government witnesses, if the government elects to call any. 18 U.S.C. § 3142(f).

The court must order a defendant detained if the court finds that conditions cannot be imposed

1 that will assure the defendant's appearance, or the safety of the community or another person. 18 U.S.C.
2 § 3142(e). The burden with respect to the flight risk prong is preponderance of the evidence. *United*
3 *States v. Aitken*, 898 F.2d 104, 107 (9th Cir. 1990). With respect to danger, the government bears the
4 burden by clear and convincing evidence. 18 U.S.C. § 3142(f); *United States v. Motamedi*, 767 F.2d
5 1403 (9th Cir. 1995).

6 The Bail Reform Act sets out several factors the Court should consider in reaching its decision
7 regarding detention and release: (1) the nature and circumstances of the offense charged, including
8 whether it is a crime of violence or drug offense; (2) the weight of the evidence against the defendant;
9 (3) the history and characteristics of the defendant, including ties to the community, past conduct, and
10 employment history; and (4) the nature and seriousness of the danger to any person or the community
11 that would be posed by the person's release. 18 U.S.C. § 3142(g).

12 **B. The facts of this case support detention**

13 1. Nature and Circumstances of the Offense Charged

14 First, arson is a dangerous crime and it is a crime for which it is particularly difficult to fashion
15 conditions of release. *See, e.g., United States v. Ferranti*, 66 F.3d 540, 544 (reversing district court
16 release order in arson and witness tampering case, and citing cases where elaborate conditions of release
17 were insufficient); *United States v. Arvanitis*, 667 F.Supp. 593 (N.D. Il. 1987) (detaining several
18 defendants in an arson and extortion scheme based on the charged offenses). The penalties are serious
19 and the incentive to flee is high.

20 Here, the nature and circumstances of Maynard's arson offense show that he is particularly
21 dangerous, even among arsonists. Over the course of the last several weeks, Maynard has set a series of
22 fires in the vicinity of the Lassen National Forest and Shasta Trinity National Forest. See Complaint
23 Affidavit of USFS Special Agent Tyler Bolen ("Complaint Aff. of Bolen"). As the Court is likely
24 aware, California is in the middle of a drought and a particularly early and difficult fire season consistent
25 with the effects of climate change. *See Today's Challenges and Opportunities: Climate Change*,
26 Briefing Paper, U.S. Dept of Agriculture, Forest Service, March 2008, available online at www.fs.fed.us
27 (last viewed August 10, 2021); *Will Global Warming Produce More Frequent and More Intense*
28 *Wildfires?*, United States Geological Survey, available at: <https://www.usgs.gov/faqs/will-global-wildfires>

1 [warming-produce-more-frequent-and-more-intense-wildfires?qt-news_science_products=0#qt-news_science_products](https://www.sacbee.com/news/california/fires/article253350538.html) (describing scientific consensus and providing links to resources); *The Wildland Arsonist: One of the Most Dangerous Criminals*, WILDFIRE TODAY, Feb. 23, 2021, available online at <https://wildfiretoday.com/2021/02/23/the-wildland-arsonist-one-of-the-most-dangerous-criminals> (last viewed Aug. 10, 2021). The area in which Maynard chose to set his fires is near the ongoing Dixie fire, a fire which is still not contained despite the deployment and efforts of over 5,000 personnel. *Dixie Fire Now Second-Largest in California State History Here's What We Know*, Vincent Moleski and Amelia Davidson, SACRAMENTO BEE, Aug. 9, 2021, available online at <https://www.sacbee.com/news/california/fires/article253350538.html> (last viewed Aug. 10, 2021).

2 Depending on wind direction, smoke from this fire has engulfed the federal courthouse here in

3 Sacramento and has been experienced several states away. See, e.g., *The Ashes of the Dixie Fire Cast a*

4 *Pall 1,000 Miles From Its Flames*, NEW YORK TIMES (Aug. 9, 2021, updated online Aug. 10, 2021).

5 Maynard traveled long distances through California specifically to this area. Complaint Aff. of Bolen.

6 He entered the evacuation zone and began setting fires behind the first responders fighting the Dixie fire.

7 In addition to the danger of enlarging the Dixie fire and threatening more lives and property, this

8 increased the danger to the first responders.

9 Words cannot describe this additional threat to firefighters and other emergency personnel as

10 effectively as the map attached as Exhibit 1 to this memorandum. The map shows the boundaries of the

11 Dixie fire where firefighters are laboring to protect the public at significant personal risk. The map also

12 shows where Maynard set fires on August 5th and 7th behind those fire lines. Maynard's fires were

13 placed in the perfect position to increase the risk of firefighters being trapped between fires. But for the

14 dedication and efforts of U.S. Forest Service investigators working around the clock to track Maynard,

15 those fires would not have been discovered in their infancy. With Maynard's growing fires at their

16 backs, firefighters would have been placed at much greater risk.

17 2. Weight of the Evidence

18 The second detention factor also favors detention. As described in the criminal complaint

19 affidavit, Maynard was traveling alone through the forest in isolated areas. Agents had installed a

20 tracker on his vehicle. Where Maynard went, fires started. Not just once, but over and over again. As a

1 result, the evidence is strong and Maynard will be convicted if he chooses to go to trial.

2 3. History and Characteristics of the Defendant/Ties to the Community

3 Maynard's ties to the community also appear weak. He was living out of his car alone and
4 traveling across large sections of Northern California. Maynard appears to have had difficulty holding a
5 teaching job at the various universities at which he has taught. Therefore, this factor favors detention.

6 4. Nature and Seriousness of the Danger to the Community

7 Finally, Maynard poses a particular danger to the community. He is a serial arsonist, during a
8 dangerous time for state and the public from wildfires. Wildfires can and do kill Californians and
9 destroy their homes. Virtually entire towns have been destroyed already this year as well as in prior fire
10 seasons. Moreover, the manner in which Maynard chooses to set his fires is particularly dangerous to
11 first responders who are already stretched thin fighting large fires.

12 The nature of Maynard's arson-fires also make him a particularly poor candidate for pretrial
13 release. U.S. Forest Service Agents had a tracker on Maynard's vehicle and were waiting in shifts
14 nearby to track Maynard's movements and discover any fires he set. These were extraordinary and
15 resource intensive precautions that were necessary because of the difficulty of finding someone in the
16 forest without a tracker and the speed with which a fire can grow. Exhibit 2, which is a photograph from
17 Maynard's "Ranch Fire" shortly after it was discovered, demonstrates how quickly a fire can grow in the
18 forest under current conditions even with these precautions in place. Pretrial Services simply would not
19 be able to provide the 24 hour in-person surveillance and monitoring that is required to ensure the safety
20 of the community. Maynard must be detained.

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III. CONCLUSION

For the foregoing reasons, the government respectfully requests that the defendant be detained as a flight risk and as a danger to the community.

Dated: August 10, 2021

PHILLIP A. TALBERT
Acting United States Attorney

By: /s/ MICHAEL D. ANDERSON
MICHAEL D. ANDERSON
Assistant United States Attorney